

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:18-cr-00035-MR-WCM-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEROME DON PATTON,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's "Motion for Relief from a Judgement by Correcting Pre-Sentence Investigation Report..." [Doc. 53].

The Defendant was charged in a Bill of Indictment with one count of possession with intent to distribute quantities of cocaine, cocaine base, heroin, and marijuana, in violation of 21 U.S.C. § 841(a)(1) ("Count One"); one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A) ("Count Three"); and one count of possession of a firearm after having been convicted of a felony, in violation of 18 U.S.C. § 922(g)(1) ("Count Four"). [Doc. 1]. The Defendant entered into a written Plea Agreement with the Government, pursuant to which the

Defendant agreed to plead guilty to Count One in exchange for the dismissal of Counts Three and Four. [Doc. 21]. The Factual Basis filed in support of the Plea Agreement, and as agreed to by the Defendant, states that the Defendant fled the scene of a traffic stop with a black backpack. A foot chase ensued, and when the Defendant was apprehended, the black backpack was located approximately twenty feet away, with a loaded pistol and various controlled substances inside. [Doc. 22 at ¶ 5]. The Presentence Report (PSR) incorporated this Factual Basis. The PSR further notes that the Defendant has prior convictions for felony robbery with a dangerous weapon, four counts of felony second degree kidnapping, felony larceny, and felony first degree burglary. [Doc. 41 at ¶ 43].

The Defendant was sentenced to 60 months' imprisonment on November 29, 2018. [Doc. 47]. He did not file a direct appeal.

The Defendant now moves the Court for an Order redacting from his PSR "any such information by which [he] might be barred or prevented from" receiving good time credit for the successful completion of the Residential Drug and Alcohol Abuse Program (RDAP). [Doc. 53 at 2].

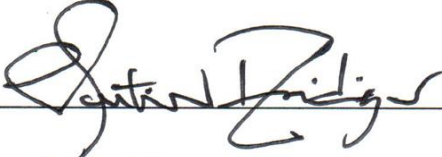
The Defendant's motion must be denied. The Defendant did not object at sentencing to any of the information set forth in the PSR, and he did not file a direct appeal. Accordingly, the Defendant has waived any further

challenge to the PSR. See United States v. Emanuel, 869 F.2d 795, 796 (4th Cir. 1989) (holding that defendant waived challenge to PSR by failing to seek direct review); United States v. Scott, 8 F. App'x 275, 276 (4th Cir. 2001) (per curiam) (citing Emanuel with approval).

IT IS, THEREFORE, ORDERED that the Defendant's "Motion for Relief from a Judgement by Correcting Pre-Sentence Investigation Report..." [Doc. 53] is **DENIED**.

IT IS SO ORDERED.

Signed: June 9, 2020



Martin Reidinger
Chief United States District Judge

